

REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment is in response to the Office Communication mailed July 1, 2005.

Claims 1-17, 32 and 34 remain in the application. Claims 1- 33 were originally presented. Claims 1 and 7 have been amended. New independent claim 34 has been added. Claims 18-31 and 33 have been cancelled and therefore no additional fees should be incurred. Consequently, claims 1-17, and 34 are pending. Applicant submits that each and every amendment herein, and throughout the prosecution of the present application, is fully supported by the specification as originally filed, and that no new matter has been added.

Reconsideration of the application is respectfully requested in view of the following responsive remarks.

Restriction Requirements:

In response to the restriction requirement of March 16, 2005, the Applicant elects, with traverse, invention I. The claims readable thereon being claims 1-17, drawn to a method of playing a card game. Claim 32 has been withdrawn; however, reconsideration is requested upon determination of allowable subject matter.

Claims Objections:

The indication of allowable subject matter in claims 7-9, if rewritten in independent form, is acknowledged with appreciation. Claim 7 has thus been amended to include the limitations of independent claim 1 to bring it into condition for allowance. Therefore, since claim 7 incorporates allowable subject matter including all of the limitations of the base claims, and since claims 8 and 9 depend from amended independent claim 7, claims 7-9 are now in condition for allowance, and removal of the objection to Claims 7-9 is respectfully requested.

Claim Rejections under 35 U.S.C. § 103

Claims 1-6 and 10-17 (including independent claim 1) were rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith (U.S. Pat. No. 6,262,200).

Independent claim 1 has been amended to clarify novel features of the present invention and is fully supported by the specification as originally filed. Specifically, as claimed in claim 1, “the second wager area identifying card content [is] restricted to at least two face cards revealed in the at least three cards to be revealed,” as is clearly shown in FIG. 3. Additionally, the various face card combinations that can result in a winning wager in the second wager area are described on page 6 lines 9-17 of the specification of the present application. Thus, a winning wager in the second wager area of the present invention is based on both card value (i.e. face cards only), and card combination (i.e. pair, three of a kind, straight, and suit).

In contrast, the Smith reference does not suggest or disclose a second wager area restricted to combinations of face cards only, and practice of the invention taught by Smith does not require face cards to win a wager in the second wager area. Therefore, applicant respectfully submits that independent claim 1 is allowable in its amended form since it recites novel elements that are not taught by any of the cited references or combinations thereof, and urges the Examiner to remove the rejections and objections to independent claim 1 and dependent claims 7-9.

Moreover, with respect to the Smith reference, applicant respectfully submits the Examiner has not established a prima facie case of obviousness because the Smith reference teaches away from restricting the second wager area to face card combinations. Instead, Smith discloses a second wager area identifying card content dependent upon a combination of any of the cards in the deck, face card or otherwise. For example, the second wager area 30-38 (FIG. 1 of the Smith reference) depends on the combinations of any pair 30, any flush 32, any straight 34, any 3 of a kind 36, or any straight flush 38, and obtaining one of these combinations without a face card will not necessarily result in a loss to the player. Conversely, absence of a face card in the at least two cards to be revealed will result in a loss to the player in the second wager area of the present invention. Consequently, a prima facie case of obviousness has not been met since Smith does not teach or suggest all of the claimed limitations, and in fact teaches away from the present invention. Therefore, applicant respectfully submits that independent claim 1 is allowable, and urges the Examiner to remove the rejections to independent claim 1 and dependent claims 2-6, and 10-17.

CONCLUSION

In light of the above, Applicant respectfully submits that pending claims 1-17 and 34 are now in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. Reconsideration of claim 32 is requested. If any impediment to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call Vaughn North at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 12th day of July, 2005.

Respectfully submitted,



Vaughn W. North

Registration No. 27,930

THORPE NORTH & WESTERN, LLP

Customer No. 20,551

P.O. Box 1219

Sandy, Utah 84091-1219

Telephone: (801) 566-6633